

RDMD/Planning and Development Services

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DATE: April 15, 2004

TO: Orange County Zoning Administrator

FROM: RDMD/PDS/Current and Advance Planning Services

SUBJECT: Public Hearing on Planning Application PA04-0011 for Variance and Use Permit

PROPOSAL: The applicant proposes to make an addition to an existing single-family residence (on a corner lot) that will attach the residence to an existing detached garage located at the rear of the lot. The garage was originally constructed with a setback of 5 feet from the rear property line, which was the permitted setback for a detached structure. By attaching the garage to the residence, a setback of 20 feet is now required. A Variance is requested to permit the existing 5-foot rear setback. A Use Permit per Zoning Code section 7-9-137.5 is requested to reconstruct an existing 6.5 feet high wall (on the Aceca Drive side of the property) with a new 6.5 feet high wall. The Zoning Code allows a 6.0 feet high wall at this location.

LOCATION: The subject property is located at 11852 Foster Road, in the community of Rossmoor, at the intersection of Foster Road and Aceca Drive. Second Supervisorial District.

APPLICANT: Stephanie and Steve Weil, property owner
Ronald Wikstrom, agent

STAFF William V. Melton, Project Manager

CONTACT: Phone: (714) 834-2541 FAX: (714) 667-8344

SYNOPSIS: PDS/Current and Advance Planning Services recommends Zoning Administrator approval of PA04-0011 subject to the attached Findings and Conditions of Approval.

BACKGROUND:

The subject site is located in the community of Rossmoor, an unincorporated residential community between the cities of Los Alamitos and Seal Beach; and the 605 freeway. The subject site is an corner lot measuring 75 feet wide by 110 feet deep and developed with a one-story single-family dwelling (built in the early 1960s). This lot is typical of corner lots with a detached garage in this area of Rossmoor. The front of the property is on Foster Road and the garage is accessed from Aceca Drive. The property is zoned R1/28 District.

This site was developed under the original standard R1 "Single-family Residence" zoning and Variance V3060, a tract wide variance approved in October 1957 and amended in May 1958 that permitted variances to front, rear and side setbacks; and to locations of detached garages. The applicant's property was approved with a detached garage, with a setback of 16 feet for the garage from the street right-of-

way. It appears that the garage was constructed with a setback varying from 16 feet – 6 inches to 18 feet from the property line or sidewalk.

A Variance is requested to permit the existing 5-foot rear setback. A Use Permit per Zoning Code section 7-9-137.5 is requested to reconstruct an existing 6.5 feet high wall (on the Aceca Drive side of the property) with a new 6.5 feet high wall. The Zoning Code allows a 6.0 feet high wall at this location.

SURROUNDING LAND USE:

Direction	Zoning	Existing Land Use
Project Site	R1/28 “Single-family Residence” with a 28 feet height limit	Single-family Residence
North	R1/28	Single-family Residence
South	R1/28	Single-family Residence
East	R1/28	Single-family Residence
West	R1/28	Weaver elementary school



REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site. Additionally, a notice was posted at the site, at the 300 N. Flower Building and as required by established public hearing posting procedures. A copy of the planning application and a copy of the proposed site plan were distributed for review and comment to four County Divisions and the Rossmoor Homeowners Association. As of the writing of this staff report, no comments raising issues with the project have been received from other County divisions. The Rossmoor Homeowners Association submitted comments (Exhibit 2) indicating that they had no objection to granting the Variance or the rebuilding of the over height wall, but they did oppose to the existing substandard driveway length of 16.5 feet. They felt that the driveway length should be extended to 18 feet and the existing flip-up garage door be replaced with a sectional roll-up type.

CEQA COMPLIANCE:

The proposed project is Categorically Exempt (Class 5, minor alterations in land use limitations such as setback variance) from the requirements of CEQA. Appendix A contains the required CEQA Finding.

DISCUSSION/ANALYSIS:

Numerous variances have been approved in Rossmoor to allow additions to the dwelling that would attach the dwelling to a detached garage with a setback of 5 feet. This proposal is typical of those previous approvals, which did not raise concerns with adjacent property owners. Since the garage would be attached to the dwelling, a setback of 15 feet is required per Ordinance No. 3557 approved on November 20, 1985. This Ordinance and associated Zone Change established a rear yard setback of 15 feet, with a condition that all structures located between 25 feet and 15 feet from the rear property line be limited to a height of 17 feet. While the total structure would be only 5 feet from the rear property line, the new addition to the dwelling would be located 24 feet from the rear property line. All other portions of the proposed additions to the residence conform to the side and front setbacks.

Since this procedure has been approved numerous times in the past throughout Rossmoor and because the proposal would not have an effect on the property to the rear, staff can support this portion of the applicant's request. A recent approval for a similar addition to a residence converting a detached garage to an attached garage with a 5-foot rear setback was Planning Application PA02-0009, a corner lot at Davenport Road and Orangewood Ave. However, before this variance request can be approved, the Zoning Administrator, in accordance with State and County planning laws, must be able to make the following variance findings listed below. If the Zoning Administrator cannot make these findings, the application must be disapproved.

1. There are special circumstances applicable to the subject building site which, when applicable zoning regulations are strictly applied, deprive the subject building site of

privileges enjoyed by other property in the vicinity and subject to the same zoning regulations.

2. Approval of the application will not constitute a grant of special privileges, which are inconsistent with the limitations placed upon other properties in the vicinity and subject to the same zoning regulations when the specified conditions are complied with.

Staff is of opinion that the Zoning Administrator is able to make these two special variance findings. The special circumstances for approving the variance requested for this proposal is in Finding No. 10 of Appendix A.

Comments from the Rossmoor Homeowners Association stated they did not have issues with the Variance request but did requested that the garage door be relocated to provide a setback of 18 feet from the back of sidewalk. They mentioned that some homeowners' setback garage doors when remodeling to provide an 18-foot driveway.¹ Staff notes that when a homeowner is requesting a Variance to convert a side entry garage to a front entry garage where a setback and driveway length of less than 17 feet would result, staff requires the homeowner to provide a minimum length driveway of 17 feet. However, the existing driveway entrance length was established by a variance when the home was constructed. The applicant's Variance proposal does not change that length and therefore staff is not recommending any modification to the current driveway length.

The Rossmoor Homeowners Association also commented that the garage door should be the sectional roll-up type. Staff agrees with this comment and is recommending a Condition of Approval (COA No. 9) requiring a new sectional rollup type garage be installed. The current garage has a "flip-up" garage door that requires a car be parked further away from the garage door to allow the garage door to be open and closed. A sectional door allows the car to pull up closer to the door thus allowing for more driveway length to be available.

The applicant also request a Use Permit to replace an existing 6.5 feet high wall on the side property line with a new 6.5 feet high wall. The permitted wall height in this side setback area is 6 feet. The site plan shows that the new construction will provide the required 5-foot corner cut-off at the intersection of the driveway and the street. The existing wall does not provide this requirement and therefore the new wall proposed will provide greater visibility and thus greater safety for cars backing out of the garage. Because the proposed wall is new construction, staff will support the request for a new wall but with a Condition of Approval (COA No. 10) that only the pilasters have a maximum height of 6.5 feet and the new wall have a maximum height of 6.0 feet as measured from the sidewalk. In addition to rebuilding the wall in the side yard, staff notes that the applicant is proposing to construct a new wall in the front of the property. The plans submitted show that this wall is a maximum of 3.5 feet high in the front setback area, which conforms to the wall height standards.

¹ **NOTE:** the Rossmoor Homeowners Association comment on this existing driveway length may partially be based on the Planning Application that indicated a Use Permit would be required to maintain the existing driveway length of 16.5 feet per Zoning Code Section 7-9-145.2(i). It has been determined that the referenced zoning code section is not applicable to this proposal and a Use Permit is not required. Additionally, the driveway is angled to Aceca Street with setbacks of the garage ranging from 16.5 feet to 18 feet, which would provide the required one 17-foot long driveway space in front of the garage.

RECOMMENDED ACTION:

PDS/Current and Advance Planning Services recommends the Zoning Administrator:

- a. Receive staff report and public testimony as appropriate; and,
- b. Approve Planning Application PA04-0011 for Variance and Use Permit, as revised, subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Chad G. Brown, Chief
CAPS/Site Planning Section

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APPENDICES:

- A. Recommended Findings
- B. Recommended Conditions of Approval

EXHIBITS:

1. Applicant's Letter of Explanation
2. Comments from the Rossmoor Homeowners Association
3. Site Photos
4. Site Plans

APPEAL PROCEDURE:

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this report, or in written correspondence delivered to the RDMD/Planning and Development Services.